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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/561,405      | 12/16/2005  | Stuart John Andrews  | PIZI.PAU.02.US      | 1082             |

23386 7590 11/14/2007  
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| EXAMINER |
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MATHEW, FENN C

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| ART UNIT | PAPER NUMBER |
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3764

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11/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/561,405

**Applicant(s)**

ANDREWS, STUART JOHN

**Examiner**

Fenn C. Mathew

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-11 is/are rejected.
- 7) ☒ Claim(s) 12-13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                           | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 3-5, 7, 9, and 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Bussell (U.S. 6,733,426). Referring to claim 1, Bussell teaches as broadly claimed, an exercise device comprising a pair of laterally extending swing arms (36) linked to pivot rearwardly in unison, each swing-arm being pivotally mounted at its proximal end and capable of receiving a hand or wrist or forearm of a user at its distal end, a user-actuated mechanism for pivoting the swing-arms rearwardly in unison, wherein the user-actuated member is capable of being actuated by the legs. Referring to claim 3, as broadly claimed, the user-actuated mechanism is pressed in a direction away from the user during use. Referring to claim 4, as broadly claimed, Bussell discloses a collar mounting post, collar, and pair of link members (46). Referring to claim 5, note that the claim is substantially similar in scope to claim 1 above. Referring to claim 7, note the rejections above. Referring to claim 9, note that Bussell teaches that the seat is adjustable. Referring to claim 10, note the adjustability of the seat. Referring to claim 11, note the telescopic nature of the supporting assembly.

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3. Claims 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Holt (U.S. 5,277,681). Referring to claim 7 and 8, Holt teaches a pair of laterally extending swing-arms linked to pivot rearwardly, and capable of receiving a user-forearm, and a user-actuated mechanism for pivoting the swing-arms rearwardly. Holt teaches that the user-actuated mechanism may be manual or may utilize an electric motor.

4. Claims 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Huang (U.S. 5,904,641). Referring to claim 5, Huang discloses a pair of laterally extending swing-arms linked to pivot rearwardly, and capable of receiving a user-forearm, and a user-actuated mechanism for pivoting the swing-arms rearwardly with arm supporting assemblies (22) slidably mounted thereon. Referring to claim 6, as broadly claimed, Huang discloses platforms (23) and a handgrip (232) which can be rotated (after removal of the pin).

#### ***Allowable Subject Matter***

5. Claims 12-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

6. Applicant's arguments filed 08/30/2007 have been fully considered but they are not persuasive. Applicant's arguments are drawn to the functional differences, however, the claims continue to remain broad. The cited prior art as

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applied teaches the claimed structural limitations, and therefore are appropriate. Examiner respectfully notes that differences between the prior art and the current invention are very clear, and that simple amendments could be made to structurally distinguish the two (as an example, Applicant's claims 12 and 13).

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C. Mathew whose telephone number is (571) 272-4978. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

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The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



FENN C. MATHEW  
PRIMARY EXAMINER

November 12, 2007